

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER SADOWSKI

Plaintiff, : Index No. 17-cv-09045-GG
vs. : ECF Case
RENDER MEDIA INC. : **AFFIDAVIT IN SUPPORT OF**
: **CERTIFICATE OF DEFAULT**
Defendant. :
-----x

STATE OF NEW YORK)
) SS.:
COUNTY OF NASSAU)

RICHARD P. LIEBOWITZ, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and a principal at the firm of Liebowitz Law Firm PLLC, attorneys for Plaintiff in the above-entitled action. I am familiar with all the facts and circumstances in this action.
2. I submit this affidavit pursuant with Rule 55(a) of the Federal Rules of Civil Procedure, in support of Plaintiff's application for certificate of default against defendant, NYLON MEDIA, INC. (hereinafter the "Defaulting Defendant").
3. This action seeking damages against the Defaulting Defendant arising from the Defaulting Defendant's unauthorized use of Plaintiff's photograph on Defendant's website, which is an infringement of Plaintiff's copyright in violation of 17 U.S.C. §501 et seq.
4. Jurisdiction over the subject matter of this action is based upon 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

5. The Court has personal jurisdiction over the Defaulting Defendant because it resides in and transacts business in New York.
6. Plaintiff Sadowski filed the Complaint in this action on December 10, 2017. See Dkt. 1. On February 16, 2018, the Defendant was served a Summons, Civil Cover Sheet and Complaint through their agent Harvard Business Services, Inc. where Gary Damiani, Managing Agent was authorized to accept process. See Dkt. 6. Pursuant to Fed. R. Civ. P. 12, an answer or other response to the Complaint was due on or before February 21, 2018.
7. On December 19, 2017, Defendant's counsel asked for an extension to respond to the complaint until January 22, 2018 to start engaging in settlement discussions.
8. On January 23, 2017, Defendant' counsel asked for another extension until February 22, 2018 to respond to the complaint so that the parties can continue engaging in settlement discussions.
9. On or about February 9, 2018 the parties agreed on a settlement number and the parties were to finalize in a formal settlement agreement.
10. On February 20, 2018, Plaintiff signed the settlement agreement.
11. On February 21, 2018, Plaintiff filed a letter with the Court stating the parties had reached a settlement in principle and to allow 30-days to re-open the case.
12. On February 26, 2018, Defendant's counsel e-mailed me saying Defendant is going out of business and that they will not be executing the agreement.
13. On March 26, 2018, Proof of Service was filed with the Court. (Id.)

14. However, to date, Defaulting Defendant has not answered or otherwise responded to Plaintiff's Complaint and that time for Defaulting Defendant to do so has expired.

15. The action seeks judgment against Defaulting Defendant for statutory damages and attorney's fees.

DATED: March 26, 2018
Valley Stream, NY

Respectfully Submitted,

/s/Richard P. Liebowitz
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